

REMARKS

Claims 1-6 are pending in this application. All of the pending claims are rejected.

Claims 1, 2 and 6 are currently amended. Reconsideration is requested.

Claims 1-6 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. More particularly, the Office asserts that the claims are merely directed to a program listing. It is suggested that the claims are actually directed to apparatus in an access point which includes at least a receiver and a processor for processing received signals in accordance with a computer program. Claims 1 and 6 are therefore amended to more clearly delineate the computer program features from the physical features of the apparatus. As states in MPEP 2106.01:

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material *per se* and hence nonstatutory.

It is suggested that claims taken as a whole are not directed to a mere program listing. Further, the recited computer program features, which clearly impart functionality, are now recited to be on a computer readable medium and executed by a processor to perform certain functions. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since

use of technology permits the function of the descriptive material to be realized.<sup>1</sup> Withdrawal of the rejections is therefore requested.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

5/4/2009  
Date

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Docket No. 160-052  
Dd: 05/19/2009

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<sup>1</sup> MPEP 2106.01